

# NEBRASKA



## Workers' Compensation Court 63<sup>rd</sup> Annual Report

**Fiscal Year 2005:**

July 1, 2004 through June 30, 2005



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# **Nebraska Workers' Compensation Court**

## **63<sup>rd</sup> Annual Report**

### **Fiscal Year 2005:**

**July 1, 2004 through June 30, 2005**



**Michael K. High,**  
Presiding Judge

**Michael P. Cavel,**  
Judge

**James R. Coe,**  
Judge

**Laureen K. Van Norman,**  
Judge

**Ronald L. Brown,**  
Judge

**J. Michael Fitzgerald,**  
Judge

**John R. Hoffert,**  
Judge

**Glenn W. Morton,**  
Court Administrator

**Kay E. Peterson,**  
Clerk of the Court

## **Letter of Transmittal**

Lincoln, Nebraska  
December 1, 2005

Honorable John V. Hendry  
Chief Justice of the Nebraska Supreme Court

Honorable Dave Heineman  
Governor of Nebraska

Honorable Kermit Brashear  
Speaker of the Nebraska Legislature

Dear Sirs:

We have the privilege of submitting herewith the Sixty-Third Annual Report of the Nebraska Workers' Compensation Court, prepared in accordance with the provisions and requirements of Section 48-166, Revised Statutes of Nebraska.

Very truly yours,  
NEBRASKA WORKERS' COMPENSATION COURT  
By

Michael K. High  
Presiding Judge

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# General Information

## History

The Nebraska Workers' Compensation Act was first passed in 1913 and from then until 1917 the Act was administered by the several state district courts. In 1917, the Legislature created the Compensation Division in the Department of Labor and the commissioner of labor was designated compensation commissioner. The 1935 Legislature established the Workers' Compensation Court and transferred Compensation Division functions to the court. The authority and responsibilities of the court are found in Chapter 48, Article 1, of the Revised Statutes of Nebraska. By 1988, the workers' compensation bench had grown to seven judges who hear disputed cases throughout the state.

## Mission

The mission of the Nebraska Workers' Compensation Court is to administer and enforce all provisions of the Nebraska Workers' Compensation Act, except those provisions that are committed to the courts of appellate jurisdiction or as otherwise provided by law.

## Organization

The Nebraska Workers' Compensation Court is composed of seven judges who are initially appointed by the governor and who then remain on the bench for successive six-year terms upon approval of the electorate. Every two years one of the judges is elected as presiding judge by the judges of the court, subject to approval of the Supreme Court. Four judges are located in the State Capitol in Lincoln and three judges are located in the Hall of Justice in Omaha. A judge will travel to any county in the state where an accident occurred to hear a disputed case. A case is first heard by a single judge and, if appealed, the case is then heard by a review panel of three judges of the court. The review is based on the record created at the original hearing, and no new evidence may be introduced. The next level of appeal is to the Nebraska Court of Appeals and ultimately a case may go to the Nebraska Supreme Court.

For administrative purposes, the judges and staff of the court are organized into two operating divisions and eight operating sections. The adjudication division, under the direction of the presiding judge, includes the judges, the Office of the Clerk of the Court, and the Judicial Support Section. The administration division, under the direction of the court administrator, includes the remaining sections as identified below. The court administrator also serves as the chief administrative officer for the court.

The ***Office of the Clerk of the Court*** receives court filings, docket cases, corresponds with the parties, and issues opinions of the court.

The ***Judicial Support Section*** schedules hearings and motions, issues opinions of the court, and provides administrative and secretarial support for the judges of the court.

The ***Administration Section*** is responsible for the business, financial, and personnel functions of the court, and also administers the Second Injury program. Under two federal grants the section conducts a federal survey of work related injuries and illnesses and a data collection program for fatal injuries.

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The ***Legal Section*** reviews settlement applications for adequacy and compliance with the law, conducts mediation conferences to facilitate informal resolution of disputes, informs injured workers, employers, and others of their rights and obligations under the law, provides legal advice to court staff, and monitors legislation for potential impact on the workers' compensation system.

The ***Coverage and Claims Section*** has responsibilities in three distinct areas. Compliance activities include enforcing insurance coverage requirements and enforcing the claims handling and reporting obligations of insurers and self insurers. Medical services activities include certifying and monitoring managed care plans, administering the independent medical examiner program, revising and maintaining the schedule of medical and hospital fees, and responding to inquiries related to medical issues. Self-insurance activities include reviewing applications for self-insurance, monitoring the financial status and payroll records of self-insured employers, and collecting fees and assessments from self-insured employers.

The ***Vocational Rehabilitation Section*** is responsible for reviewing and approving proposed vocational rehabilitation plans, certifying vocational rehabilitation counselors and job placement specialists, and appointing a vocational rehabilitation counselor if the parties cannot agree on the selection. The progress of injured workers in an approved plan is monitored, and all payments from the Workers' Compensation Trust Fund for plan expenses must be approved by the section.

The ***Public Information Section*** receives and processes all reports of injury and benefit payments, manages the court's records retention schedule, and responds to requests for records and information. The section also supports a toll-free information line, prepares court publications, develops educational workshops, and maintains the court's Web site.

The ***Information Technology Section*** is responsible for the computer network, programs, and databases of the court. The section develops and maintains the court's client/server system, develops computer programs and applications, coordinates information technology activities with vendors and other state agencies, and assists other court sections in meeting their goals through the use of technology.

## **Activities in Fiscal Year 2005**

### ***Legislation***

LB 13 from the 2005 session of the Legislature made significant changes regarding the administration and enforcement of the Nebraska Workers' Compensation Act. The bill established a mechanism for enforcing various administrative and regulatory provisions of the Act by allowing the Attorney General to initiate or intervene in certain actions before the court. The bill also established statutory duties for the court administrator and clarified the responsibilities of the presiding judge and court administrator. These provisions became operative September 4, 2005. Other changes to the Act were included in LB 236 and LB 238, also from the 2005 legislative session.

### ***Administrative Restructure***

Consistent with the LB 13 changes, the court revised its administrative structure into two operating divisions, with the adjudication division under the direction of the presiding judge, and the administration division under the direction of the court administrator.

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Existing staff were reorganized under the presiding judge and court administrator as reflected in the organizational chart shown on page 4 of this report. A new Judicial Support section was also created under the adjudication division to more efficiently manage support services provided to the judges of the court.

### ***“Paperless” Court***

The court established a broad goal of becoming “paperless” in our operations by the year 2011, including the electronic filing and processing of pleadings and other litigation documents. To this end, internal business process re-engineering efforts were underway across all sections of the court in FY 2005 and will continue into the future. These include enhanced electronic document management, integrated message management, improved print and mail management, telephone and e-mail contact management, and first report of injury management. Particular attention is being given to workflow management, especially with regard to adjudication support, and automation of the lump sum settlement process.

### ***Proof of Coverage***

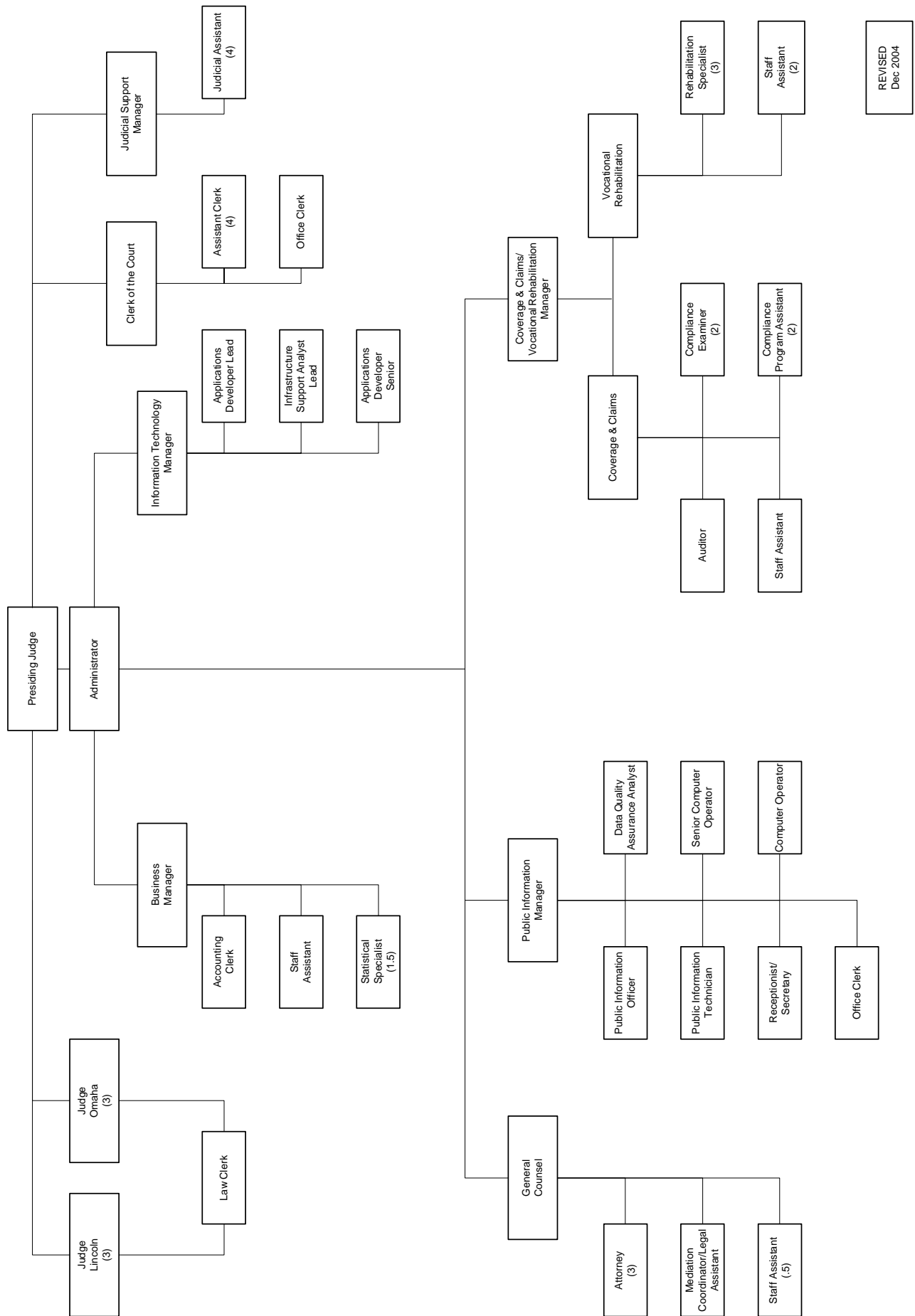
The court adopted national standards, established by the International Association of Industrial Accident Boards and Commissions (IAIABC), for the electronic reporting of proof of workers’ compensation insurance coverage. Effective December 15, 2005, insurers or court-certified vendors acting on behalf of the insurers must electronically file such reports directly with the court using the IAIABC Release 2.1 Proof of Coverage standards. This will allow the court to respond more quickly and fully to requests for coverage information and also to expand its efforts to identify uninsured employers and take corrective action.

### ***Public Information***

Court forms in Portable Document Format (PDF) were enhanced consistent with the Governors’ initiative to electronically automate the thousands of paper forms that are critical to the State’s business. The court’s PDF forms may now be completed electronically, printed, and then mailed or faxed to the court. The court’s Web site was also updated to comply with the Branding and Policy Consistency standard of the Nebraska Information Technology Commission. The purpose of this standard is to assure site visitors that they are viewing an official State of Nebraska Web site, to provide an easy link to the official State of Nebraska homepage, and to allow viewing of the State’s privacy and security policies from each page of our Web site.

In addition to the specific activities listed above for FY 2005, the court continues to perform other duties on a regular basis as noted above in the “Organization” section. The activities of the court in FY 2005 are described in greater detail in the following pages of this Annual Report, together with basic statistics regarding injuries reported in FY 2005. Additional injury statistics and statistics regarding benefit payments are available in a separate statistical report which can be accessed on the court’s Web site at [http://www.wcc.ne.gov/pubs/statisticalreport\\_98-04.pdf](http://www.wcc.ne.gov/pubs/statisticalreport_98-04.pdf).

# NEBRASKA WORKERS' COMPENSATION COURT



REVISED  
Dec 2004

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# Judges



## **Michael K. High, Presiding Judge**

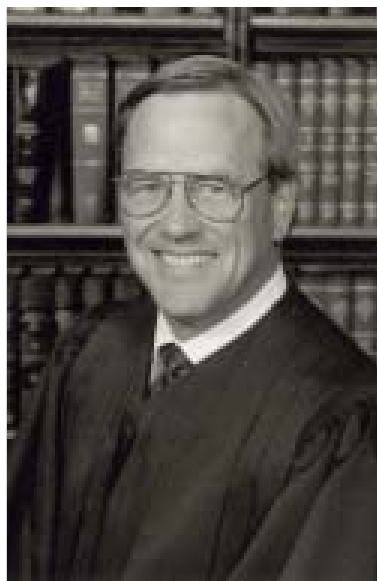
**Office Address:** State Capitol Building, Lincoln NE 68509-8908, phone (402) 471-3923, (800) 599-5155.

**Date Appointed:** January 8, 1998.

**Biography:** Graduate of University of Nebraska—Lincoln (B.S. in Agricultural Economics (1972); M.A. in Economics (1986)); University of Nebraska College of Law (J.D., 1986). Formerly: farmer and rancher (1972–1982); elected commissioner—Gosper County, Nebraska, Board of Commissioners (1978–1982); private law practice (1986–1998).

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# Judges



## **Michael P. Cavel, Judge**

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** October 5, 1983.

**Biography:** Graduate of Creighton University, Omaha, Neb. (B.A.); Creighton University School of Law (J.D.). United States Army, 1968–71; private practice, 1971–1983; Midlands Big Brother of the Year, 1988.



## **James R. Coe, Judge**

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** October 7, 1988.

**Biography:** Graduate of University of Nebraska–Lincoln (B.S. in Business Administration); University of Nebraska College of Law (J.D.). Partner of Carpenter, Rowen, Fitzgerald, and Coe, 1974–1988. Member of West Omaha (Neb.) Rotary Club; president of Dora Bingel Foundation.

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# Judges



## **Laureen K. Van Norman, Judge**

**Office Address:** State Capitol Building, Lincoln NE 68509-8908, phone (402) 471-3924, (800) 599-5155.

**Date Appointed:** July 6, 1993.

**Biography:** Graduate of University of Nebraska–Lincoln (B.A., social work); University of Nebraska College of Law (J.D.). Former Legal Counsel to the Nebraska Department of Labor. Nebraska State Bar Association: past Chair of Government Practice Committee; past member, Executive Board of Women and the Law Section; member, Supreme Court Gender Bias Task Force.



## **Ronald L. Brown, Judge**

**Office Address:** Hall of Justice, 1701 Farnam, Omaha NE 68183-0001, phone (402) 595-3900, (800) 599-5155.

**Date Appointed:** April 8, 1994.

**Biography:** Graduate of Dana College (B.S., cum laude); Creighton University School of Law (J.D.). Former occupations: Douglas County Assistant Public Defender, 1977–1978; Brown Law Offices, P.C., 1979–1989; Brown and Tripp, P.C., 1989–1994. Member of Nebraska State Bar Association, Nebraska Association of Trial Attorneys, Association of Trial Lawyers of America.

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# Judges



## **J. Michael Fitzgerald, Judge**

**Office Address:** State Capitol Building, Lincoln NE 68509-8908, phone (402) 471-3924, (800) 599-5155.

**Date Appointed:** April 12, 1996.

**Biography:** Graduate of University of Notre Dame (B.S. Business Administration); Georgetown University Law Center (J.D.); Creighton University (Certificate of Completion, Paramedic Training Program). Admitted to practice: Nebraska Supreme Court, United States District Court for the District of Nebraska, United States Court of Appeals for the Eighth Circuit, United States Tax Court. Employee-associate and stockholder partner: Matthews, Kelly, Cannon, and Carpenter, P.C., 1969–1977. Stockholder partner: Carpenter, Fitzgerald, and Coe, P.C., 1978–1983; Miller, Carpenter, Rowen, Fitzgerald, and Coe, P.C., 1983–1987; Carpenter, Rowen, Fitzgerald, and Coe, P.C., 1987–1988; Carpenter, Rowen, and Fitzgerald, P.C., 1988–1996. Member of Nebraska State Bar Association, American Bar Association, American Trial Lawyers Association, Nebraska Trial Lawyers Association, Omaha Bar Association.



## **John R. Hoffert, Judge**

**Office Address:** State Capitol Building, Lincoln NE 68509-8908, phone (402) 471-3923, (800) 599-5155.

**Date Appointed:** October 4, 2001

**Biography:** Graduate of Western Illinois University (B.A., High Honors, Political Science); University of Nebraska College of Law (J.D. with Distinction). Associate/Partner: Knudsen, Berkheimer, Richardson & Endacott, LLP (1980-2001). United States Army (1970-1972). Past member: Legal Services of Southeast Nebraska, Board of Directors; Folsom Children's Zoo and Botanical Gardens, Board of Directors; Nebraska Association of Trial Attorneys; American Judicature Society and American Trial Lawyers Association.

# Compensation Court Cash Fund

## *Fiscal Year 2005 (July 1, 2004 to June 30, 2005)*

The Compensation Court Cash Fund provides for the expense of administering the Nebraska Workers' Compensation Act and for the payment of the salaries and expenses of the personnel of the Nebraska Workers' Compensation Court. The fund was established in 1993 and replaced the use of general funds. The fund is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers. Contributions to the fund abate for one year whenever the balance of the fund equals or exceeds three times the amount expended and encumbered in the fiscal year just ending. The Nebraska Legislature appropriates a specific sum each year for operations of the Nebraska Workers' Compensation Court, to be funded from the Compensation Court Cash Fund. The appropriation for fiscal year 2005 was \$4,242,325.

**BALANCE of fund on July 01, 2004:** \$6,661,427

**Revenue:**

Assessments	4,423,530
Interest	211,972
Accounts Receivables Invoiced	13,871
Due to Vendor	(6,674)
Bonds Payable	(675)
Operating Transfers In	359,757
Sale of Surplus Property	4,548
Miscellaneous Income	111,935
Miscellaneous Adjustment	231
Total Revenue	<u>5,118,495</u>

**Expenditures:**

	Appropriation	Not Expended	Actual Expended
Court Administration	3,771,208	435,723	3,335,485
Voc. Rehab. Administration	355,669	15,178	340,491
Second Injury Administration	752	13	739
Self-Insurance Administration	85,038	1,509	83,529
Federal Grant Administration	29,658	1,571	28,087
Totals	<u>4,242,325</u>	<u>453,994*</u>	<u>3,788,331</u>
Less Total Expenditures			<u>3,788,331</u>

**BALANCE of fund on June 30, 2005:** \$7,991,591

\* Does not include FY 2005 expenditures of \$74,582 paid in FY 2006.

# Workers' Compensation Statistics Fund

## *Fiscal Year 2005 (July 1, 2004 to June 30, 2005)*

The court conducts a survey of work-related injuries and illnesses and a data collection program for fatal injuries pursuant to two grants from the U.S. Department of Labor—Bureau of Labor Statistics (BLS). The Survey of Occupational Injuries and Illnesses is mandated by the Occupational Safety and Health Act of 1970 (P.L. 91-596), and the court was designated as the agency in Nebraska to conduct this work in a letter of March 25, 1971 from Governor J.J. Exon to Secretary of Labor, J.D. Hudgson. In 1991, the court contracted for the additional responsibilities of conducting the Census of Fatal Occupational Injuries as designated by BLS.

Expenses for administering these two federal grants are split 50/50 between the State of Nebraska and BLS. The state share of expenditures is charged against the Compensation Court Cash Fund, and the federal share is charged against the Workers' Compensation Statistics Fund. Federal monies are requested on a monthly basis and deposited into the Workers' Compensation Statistics Fund. The Nebraska Legislature appropriates a specific sum each year for expenditures from the Workers' Compensation Statistics Fund. The appropriation for fiscal year 2005 was \$31,808.

<b>BALANCE of fund on July 01, 2004:</b>				\$0
<b>Revenue:</b>				
Intergovernmental Revenue			31,808	
Total Revenue				<u>31,808</u>
<b>Expenditures:</b>				
	Appropriation	Not Expended	Actual Expended	
Federal Grant Admin.	31,808	0	31,808	
Totals	<u>31,808</u>	<u>0</u>	<u>31,808</u>	
Less Total Expenditures				<u>31,808</u>
<b>BALANCE of fund on June 30, 2005:</b>				<u><u>\$0</u></u>

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# Workers' Compensation Trust Fund

## *Fiscal Year 2005 (July 1, 2004 to June 30, 2005)*

The Workers' Compensation Trust Fund was established July 1, 2000 as part of LB 1221 from the 2000 session of the Nebraska Legislature. The purpose of the fund is to make second injury benefit payments in accordance with section 48-128 and vocational rehabilitation benefit payments in accordance with section 48-162.01, and for paying administrative costs relating to the fund. Prior to July 1, 2000 second injury benefits and administrative costs were paid from the Second Injury Fund and vocational rehabilitation benefits and administrative costs were paid from the Vocational Rehabilitation Fund. These two funds were eliminated with the creation of the Workers' Compensation Trust Fund on July 1, 2000. The Workers' Compensation Trust Fund is financed by assessments against workers' compensation insurers, risk management pools, and self-insured employers. Assessments are made whenever the fund is projected to go below the statutory minimum level.

<b>BALANCE of fund on July 01, 2004:</b>	<b>\$ 6,292,393</b>
<b>Revenue:</b>	
Interest	199,670
Reimbursements	0
Assessments	234,526
Sale of Surplus Property	0
Total Revenue	<u>434,196</u>
<b>Expenditures:</b>	
Second Injury Benefits	428,244
Second Injury Admin. Costs*	3,133
Voc. Rehab. Benefits	1,004,058
Voc. Rehab. Admin. Costs*	356,624
Due to Vendor	(13,100)
Less Total Expenditures	<u>1,778,959</u>
<b>BALANCE of fund on June 30, 2005:</b>	<b><u><u>\$ 4,947,630</u></u></b>
* Amounts transferred from the trust fund to the cash fund for estimated administrative costs for the Second Injury and Vocational Rehabilitation programs.	

***Workers' Compensation Trust Fund  
(Transfers and Assessments)***

<b>Fiscal Year Ending:</b>	
<b>Assessments:</b>	
June 30, 2005	*\$234,526
June 30, 2004	\$5,593,038
June 30, 2003	\$0
June 30, 2002	\$0
June 30, 2001	*\$26,965
<b>Transfers:</b>	
July 1, 2000	**\$6,200,991

\*Adjustment by the Department of Insurance on assessments paid in prior years.

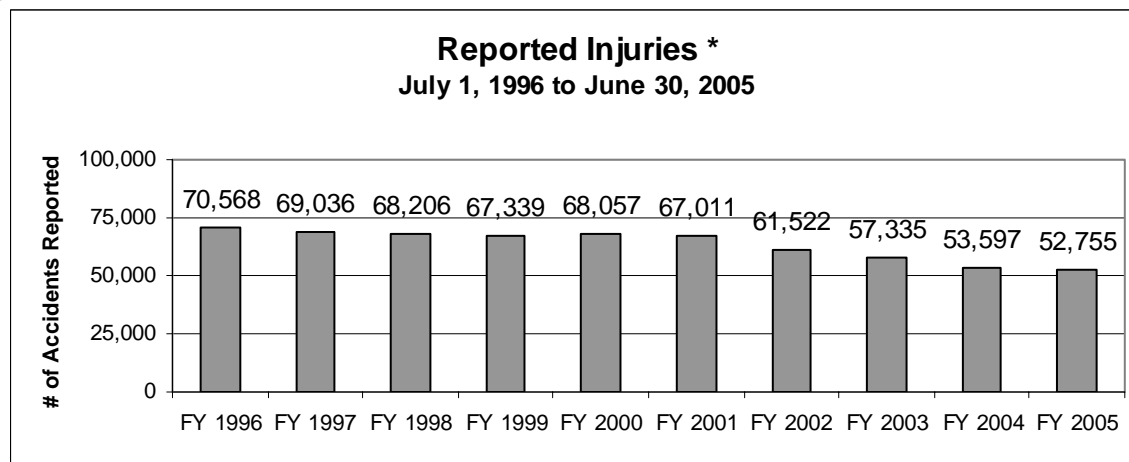
\*\*Beginning balance — transfers from Second Injury and Vocational Rehabilitation Funds.

***Second Injury & Vocational Rehabilitation Expenditures  
(Benefit and Administrative Costs)***

<b>Fiscal Year Ending</b>	<b>Second Injury</b>	<b>Vocational Rehabilitation</b>	<b>Total Expenditures</b>
June 30, 2005	\$428,983	\$1,344,549	\$1,773,532
June 30, 2004	\$521,552	\$1,393,172	\$1,914,724
June 30, 2003	\$370,499	\$1,358,530	\$1,729,029
June 30, 2002	\$388,289	\$1,072,261	\$1,460,550
June 30, 2001	\$534,559	\$1,014,519	\$1,549,078
June 30, 2000	\$910,279	\$1,022,765	\$1,933,044
June 30, 1999	\$833,256	\$1,156,770	\$1,990,026
June 30, 1998	\$564,840	\$1,022,226	\$1,587,066
June 30, 1997	\$492,644	\$918,303	\$1,410,947
June 30, 1996	\$564,743	\$761,656	\$1,326,399

## Reported Injuries \*

	Male	Female	Unknown	Total
July 1, 2004 to June 30, 2005	31,027	20,468	1,260	52,755
July 1, 2003 to June 30, 2004	32,131	20,711	755	53,597
July 1, 2002 to June 30, 2003	32,400	21,312	3,623	57,335
July 1, 2001 to June 30, 2002	35,008	21,503	5,011	61,522
July 1, 2000 to June 30, 2001	39,238	24,100	3,673	67,011
July 1, 1999 to June 30, 2000	41,249	24,544	2,264	68,057
July 1, 1998 to June 30, 1999	41,126	24,734	1,479	67,339
July 1, 1997 to June 30, 1998	43,217	24,549	440	68,206
July 1, 1996 to June 30, 1997	44,059	24,971	6	69,036
July 1, 1995 to June 30, 1996	45,549	25,019	0	70,568

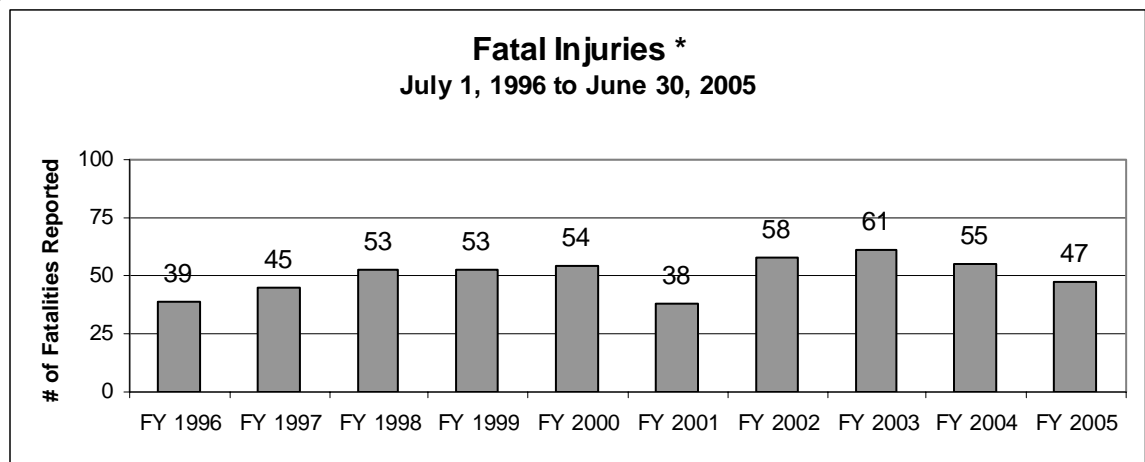


\* Includes injuries reported in FY 2005 regardless of the year in which the injury occurred.

Includes injuries resulting from occupational disease.

## Fatal Injuries \*

	Male	Female	Total
July 1, 2004 to June 30, 2005	43	4	47
July 1, 2003 to June 30, 2004	48	7	55
July 1, 2002 to June 30, 2003	50	11	61
July 1, 2001 to June 30, 2002	53	5	58
July 1, 2000 to June 30, 2001	38	0	38
July 1, 1999 to June 30, 2000	49	5	54
July 1, 1998 to June 30, 1999	48	5	53
July 1, 1997 to June 30, 1998	49	4	53
July 1, 1996 to June 30, 1997	41	4	45
July 1, 1995 to June 30, 1996	38	1	39



\* Includes fatal injuries reported in FY 2005 regardless of the year in which the injury occurred.  
Includes deaths resulting from occupational disease.

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## Weekly Income Benefits and Maximum Rates

Under the Nebraska Workers' Compensation Act the basic rule regarding weekly income benefits for total disability is that the employee is entitled to two-thirds of his or her average weekly wage, subject to maximum and minimum levels. Changes in the maximum or minimum rates apply to injuries occurring on or after the effective date, but not to injuries occurring before that date.

The maximum benefit level is set at 100 percent of the state average weekly wage, as determined by the administrator Nebraska Workers' Compensation Court. The calculation excludes federal employees, and is made in accordance with section 48-121.02 of the Nebraska Revised Statutes. The administrator has determined that the state average weekly wage for calendar year 2006 will be \$600.00. This becomes the maximum weekly income benefit for injuries occurring in calendar year 2006. The minimum rate remains at \$49 as provided in section 48-121.01(2).

<b>Maximum/Minimum Compensation Benefits</b>		
<b>Injury Occurring Between:</b>	<b>Maximum</b>	<b>Minimum</b>
1/1/2006 to 12/31/06	\$600	\$49
1/1/2005 to 12/31/05	\$579	\$49
01/01/04 to 12/31/04	\$562	\$49
01/01/03 to 12/31/03	\$542	\$49
01/01/02 to 12/31/02	\$528	\$49
01/01/01 to 12/31/01	\$508	\$49
01/01/00 to 12/31/00	\$487	\$49
01/01/99 to 12/31/99	\$468	\$49
01/01/98 to 12/31/98	\$444	\$49
01/01/97 to 12/31/97	\$427	\$49
01/01/96 to 12/31/96	\$409	\$49
01/01/95 to 12/31/95	\$350	\$49
06/01/94 to 12/31/94	\$310	\$49
07/01/91 to 05/31/94	\$265	\$49

# Litigated Case Summary <sup>1</sup>

	Original Hearing Level		Review Hearing Level		Supreme Court/ Court of Appeals Level	
<b>Fiscal Year</b> <sup>2</sup>	<b>2005</b>	<b>* 2004</b>	<b>2005</b>	<b>* 2004</b>	<b>2005</b>	<b>* 2004</b>
Cases Pending at beginning of Fiscal Year	1,600	1,536	85	81	46	35
Petition or Appeal filed in Fiscal Year	1,309	1,384	141	144	47	60
Reopened	131	145	N/A	N/A	N/A	N/A
<b>Total</b>	<b>3,040</b>	<b>3,065</b>	<b>226</b>	<b>225</b>	<b>93</b>	<b>95</b>
Court Disposition						
Decisions Issued	383	428	90	116	48	35
Settlements	855	749	26	12	4	5
Other Dispositions <sup>3</sup>	261	288	20	12	7	9
<b>Total Dispositions</b>	<b>1,499</b>	<b>1,465</b>	<b>136</b>	<b>140</b>	<b>59</b>	<b>49</b>
<b>Total Pending</b>	<b>1,541</b>	<b>1,600</b>	<b>90</b>	<b>85</b>	<b>34</b>	<b>46</b>

<b>Fiscal Year</b>	<b>2005</b>	<b>* 2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>
Number of Motions Filed	2,473	2,558	2,646	2,366	2,156	1,630
Number of Motion Dispositions	2,114	2,223	2,263	2,047	1,923	1,377
Number of Motion Hearings	1,091	1,177	1,277	1,046	911	842

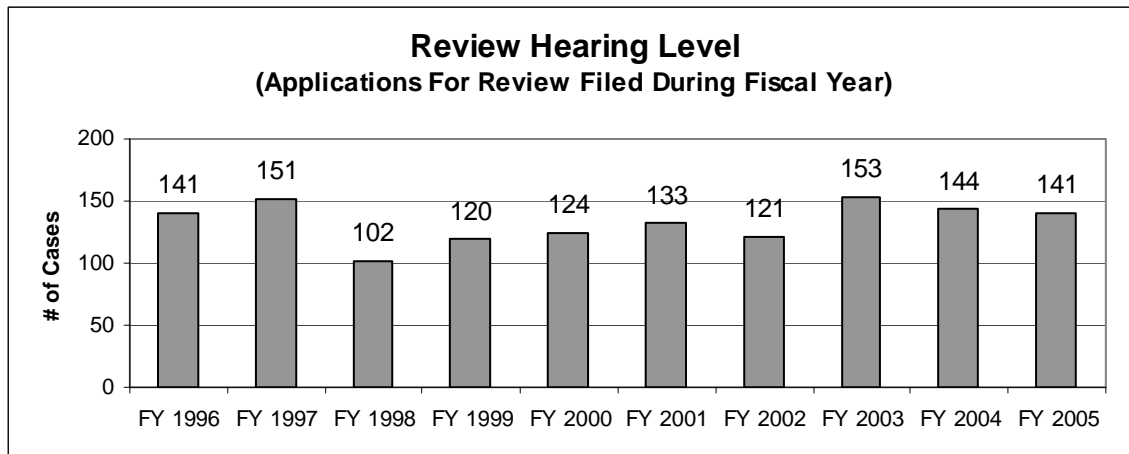
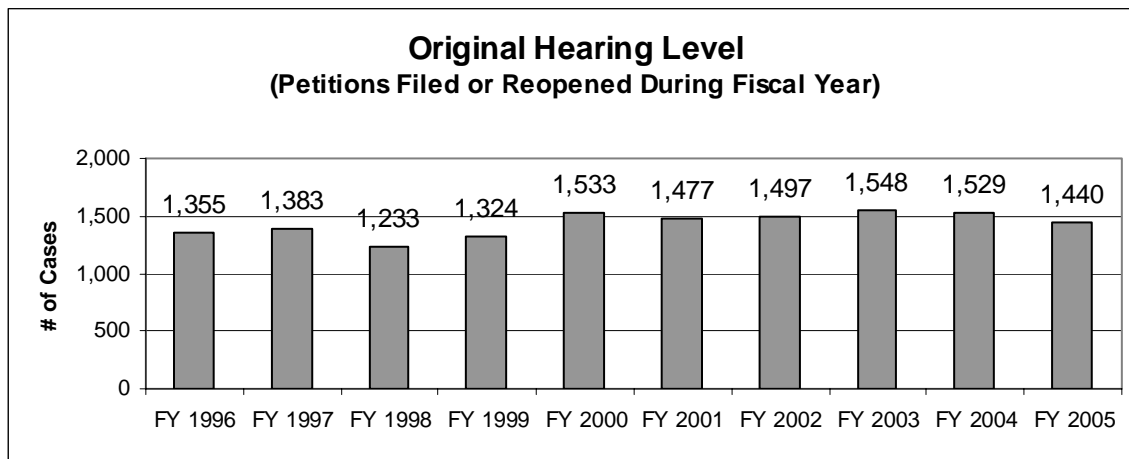
<sup>1</sup> Cases may appear more than once in any year if they are appealed.

<sup>2</sup> Fiscal Years run from July 1 through June 30.

<sup>3</sup> Dismissals without hearings.

\* Numbers for FY 2004 may differ from those shown in the FY 2004 Annual Report due to corrections to data.

## Hearings and Review Hearings

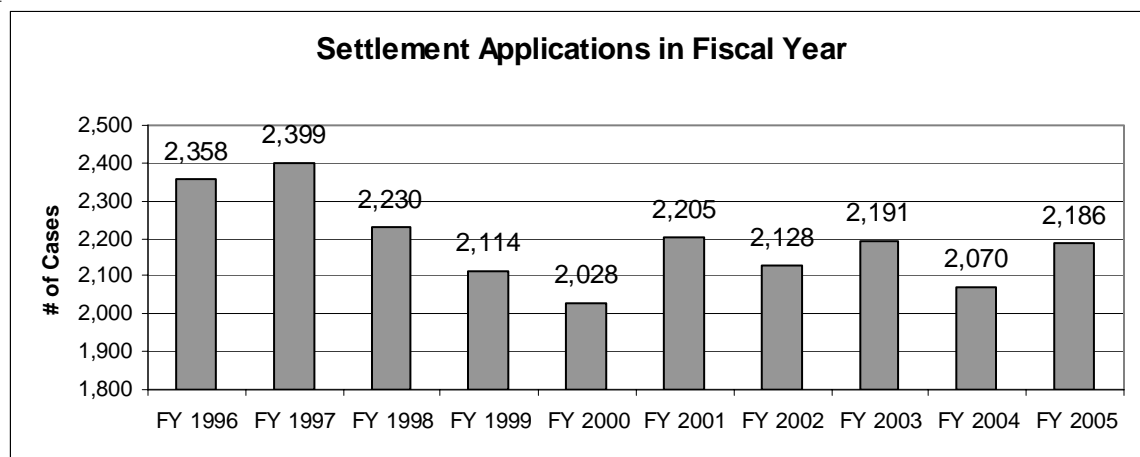


## Summary of Settlements

Fiscal Year <sup>1</sup>	2005	2004*	2003	2002	2001
<b>Applications</b>					
Applications Pending at Beginning of Fiscal Year	111	158	142	136	159
Applications Made in Fiscal Year	2,186	2,070	2,191	2,128	2,205
<b>Total</b>	<b>2,297</b>	<b>2,228</b>	<b>2,333</b>	<b>2,264</b>	<b>2,364</b>
<b>Dispositions</b>					
Applications Approved Without Litigation	1,257	1,326	1,318	1,376	1,366
Applications Approved at the Original Hearing Level	855	749	805	689	811
Applications Approved at Review Hearing Level	26	12	15	14	23
Applications Approved at the Sup. Ct./Crt. App. Level	4	5	2	1	2
Applications — Total Approved	2,142	2,092	2,140	2,080	2,202
Applications — Total Disapproved	23	25	35	42	26
<b>Total</b>	<b>2,165</b>	<b>2,117</b>	<b>2,175</b>	<b>2,122</b>	<b>2,228</b>
Applications Pending at End of Fiscal Year	132	111	158	142	136

<sup>1</sup> Fiscal years run from July 1 through June 30.

\* Numbers for FY 2004 may differ from those shown in the FY 2004 Annual Report due to corrections to data.



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# Legal

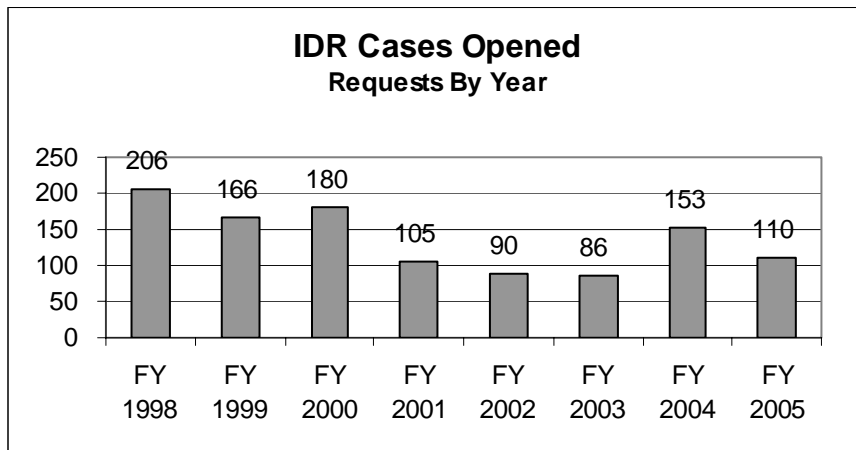
The Legal section of the Nebraska Workers' Compensation Court is responsible for reviewing lump sum settlements, facilitating informal dispute resolution, responding to inquiries from the public, providing legal advice to the court's administrative staff, and monitoring legislation for potential impact on the workers' compensation system. The section includes the court's general counsel, three staff attorneys, a mediation coordinator/legal assistant, and a part-time staff assistant.

Statistics for lump sum settlements processed in FY 2005 (July 1, 2004 through June 30, 2005) can be found in section 1, page 18 of this annual report. Summaries of the Nebraska Supreme Court and Court of Appeals decisions relating to workers' compensation may be found on the court's Web site (<http://www.wcc.ne.gov/about/casesummary.htm>).

## Informal Dispute Resolution

Informal Dispute Resolution (IDR) is available to anyone with an interest in a workers' compensation dispute. The process is voluntary and the guidelines for IDR are found in Rule 48. It provides a dispute resolution mechanism for health care providers, vocational rehabilitation counselors, and others who would otherwise have no standing before the court. Attorneys may participate, but parties to the dispute do not have to be represented. The court may also order IDR and, in fact, disputes involving a change in the treating physician must be submitted for IDR before a motion or petition can be filed. IDR is attempted in all litigated cases in which a party is unrepresented.

The court's IDR process focuses on interest-based mediation. This means that one of the court's professionally trained attorney-mediators assists the parties in reaching a resolution of the dispute that satisfies the underlying interests of the parties. The mediator does not make decisions nor evaluate the case on behalf of either party. Mediation can be an empowering process because it allows the participants to decide the outcome rather than an arbitrator or judge. Many IDR inquiries can be resolved without the need for a mediation conference simply through information and education provided by the mediation coordinator.



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Mediation conferences are conducted by the section's three staff attorneys. All of the attorney-mediators and the mediation coordinator are trained in the basic skills of mediation through a nationally recognized 30-hour training program through the Office of Dispute Resolution in Lincoln, Nebraska. Advancement of mediation skills is encouraged, and as opportunities arise the mediators receive additional training.

### ***Closed Cases***

The mediation coordinator evaluates all requests to determine whether the issues are appropriate for IDR under workers' compensation laws and rules. Sometimes they are not. In 7 of the 108 cases closed in FY 2005, the parties came to an agreement while still in the intake process with communication facilitated by the mediation coordinator. Mediation through the court is voluntary; in 63 cases, or 58 percent of all closed cases, one party declined to participate or did not respond to the request. Cases may be closed for a variety of other reasons as shown in the following table.

<b>IDR Cases Closed</b>	
Party(s) Did Not Consent	<b>35</b>
No Response by Party(s)	<b>28</b>
Mediated	<b>24</b>
Withdrawn/Resolved by Parties	<b>7</b>
Withdrawn/Plaintiff Represented	<b>6</b>
Withdrawn/Defendant Represented	<b>3</b>
Petition Dismissed	<b>3</b>
Withdrawn/Petition Filed	<b>1</b>
Inappropriate For Mediation	<b>1</b>
Total Closed in FY 2005	<b>108</b>

### ***Mediated Cases***

Of the 108 cases closed in FY 2005, 24 met in a mediation conference either in person or over the telephone. Of those 24 cases, 75 percent reached full or partial agreement.

<b>Outcome of Mediated Cases</b>	
Full Agreement	<b>14</b>
No Agreement	<b>6</b>
Partial Agreement	<b>4</b>
Total Mediated in FY 2005	<b>24</b>

# Coverage and Claims

This section includes a manager, a workers' compensation auditor, two compliance examiners, two program assistants, and a staff assistant. Section responsibilities are divided into three categories: medical services; compliance; and self-insurance.

## Medical Services Activities

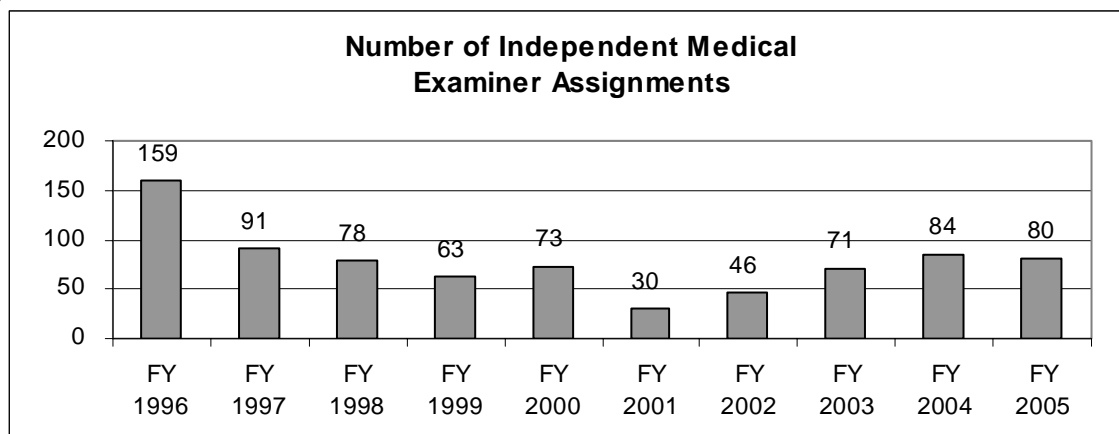
Section staff respond to inquiries from a variety of sources concerning the application and use of the court's Schedule of Medical and Hospital Fees, the Independent Medical Examiner program, managed care, the choice of physician rule, and other questions relating to medical, surgical, and hospital services under the Nebraska Workers' Compensation Act.

Section 48-120 of the Act requires the court to review the Schedule of Medical and Hospital Fees at least biennially and make appropriate changes when necessary. During FY 2004, the schedule was reviewed and a complete revision was adopted at a public hearing held May 12, 2004. The revised schedule is effective for all payments made on and after July 1, 2004.

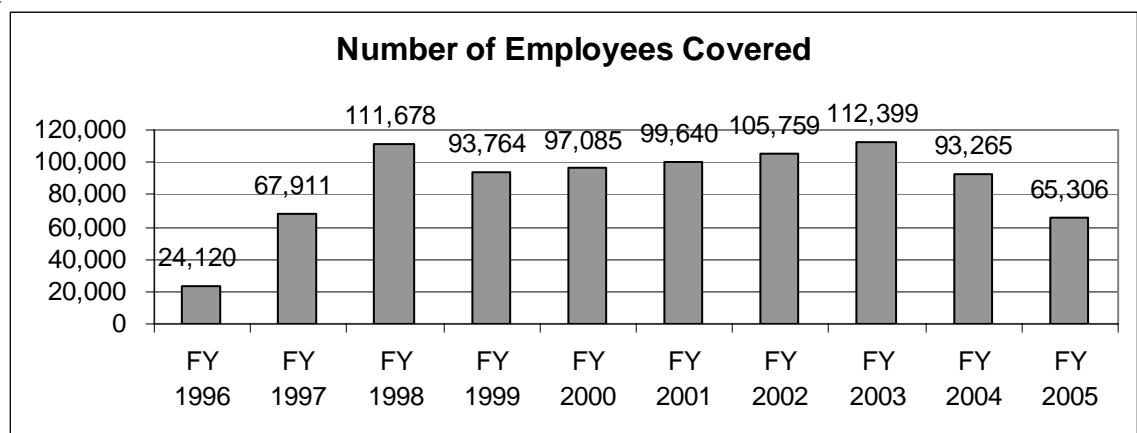
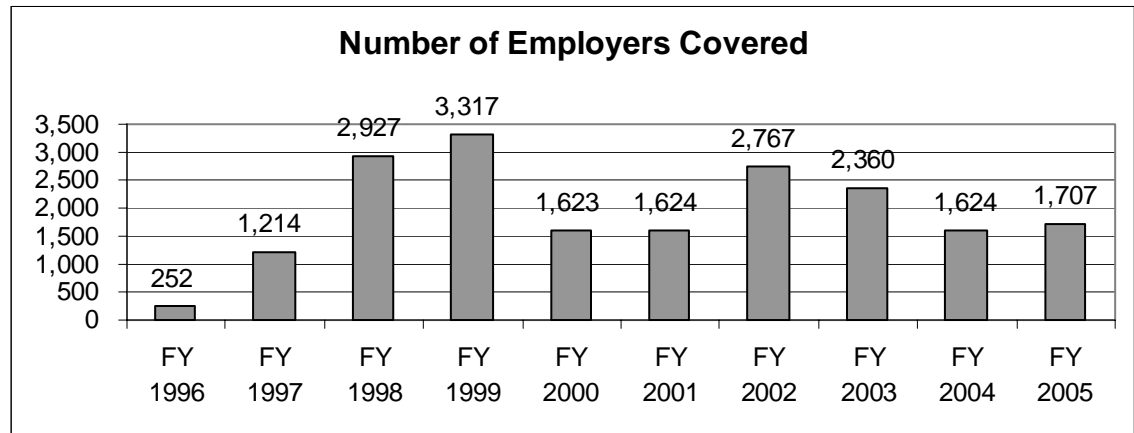
Once a dispute arises regarding the medical condition of the employee or related issues, either side may request a finding by an independent medical examiner. The IME system was designed to give the parties an additional means of resolving disputes outside the judicial process.

To serve as an Independent Medical Examiner for the court, physicians must complete an application and be approved by the judges of the court. Currently there are 207 physicians on the court's list of Independent Medical Examiners.

During FY 2005, 80 IME cases were opened. There were 55 requests for assignment of a physician filed by an attorney representing an injured employee and four requested by unrepresented employees. Sixteen assignment requests were submitted by an insurance carrier or the carrier's attorney, a judge of the court ordered three examinations, and there were two conducted by physicians agreed upon by the parties. The graph below shows assignments since the system began in 1996.



A table showing current information about managed care plans certified for workers' compensation is available on the court's Web site (<http://www.wcc.ne.gov/misc/mcp.pdf>). No new applications were submitted during FY 2005. On June 30, 2005 there were 1,707 employers and 65,306 employees covered by the certified managed care plans. Bar graphs showing the trend in covered employers and employees follow.



## Compliance Activities

One of the primary enforcement activities of the section is to identify employers who do not have insurance coverage as required under the Nebraska Workers' Compensation Act. The section sent 4,456 informational letters to new corporations registering with the Secretary of State during FY 2005. When an uninsured employer is identified, compliance examiners first attempt to bring the employer into compliance. If the efforts of the staff do not result in compliance, the case is then referred to the Attorney General's office for further action.

Insurance carriers, risk management pools, and self-insured employers are also required to comply with obligations under the Act, including the obligation to report injuries and payments in accordance with the Act and the court's Rules of Procedure. Coverage and Claims staff enforce those reporting requirements, requesting missing injury reports and monitoring for their receipt, clarifying discrepancies on existing reports and obtaining missing information. The section has devoted an increasing amount of time to the court's Electronic Data Interchange (EDI) initiative. Section staff have worked with

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Public Information and Information Technology staff on compliance issues, testing, editing for errors, and planning for future EDI activities.

Compliance examiners respond to a large volume of phone inquiries from a variety of sources and on a variety of topics. Topics frequently addressed include: medical issues, insurance carrier identification and contact information, benefit calculation questions, payment explanation, delay in receiving benefits, and general rights and obligations questions. The examiners recorded over 2,900 calls during FY 2005. Often, callers identify situations in which employers are uninsured, injury reports are not being filed, and insurers, employers, or risk management pools are not complying with other obligations under the Act. Staff investigate the specific cases, encourage voluntary compliance, and request appropriate legal action when necessary. A total of 235 case investigations were opened last fiscal year.

## Self-Insurance Activities

The Coverage and Claims section is responsible for reviewing applications for individual self-insurance, determining and collecting fees and assessments, and monitoring those employers who have been granted the privilege of self-insurance for continued ability to meet their financial obligations under the Nebraska Workers' Compensation Act. Self-insurance privileges are subject to periodic review and renewal. The Coverage and Claims section initiated a program for periodic on-site audit of payroll records in FY 2002. Through FY 2005, a total of 32 audits have been performed.

At the beginning of each calendar year, the court calculates and collects from employers self-insured for the prior calendar year the necessary assessments for the state's General Fund, the Compensation Court Cash Fund, and the Workers' Compensation Trust Fund. The assessments are based on the number and classification of employees, payroll, and benefits paid during the previous calendar year. Additional assessments are made for carrying out the Insurance Fraud Act. Because much of the information about self-insurers in Nebraska is kept on a calendar year basis, the statistics reported do not always coincide with the end of the court's fiscal year. It is important to note this distinction in the tables that follow. As of June 30, 2005 there were 53 employers approved for self-insurance. For calendar year 2005 assessment purposes, there were 51 self-insurers

### Self-Insured Status By Major Industrial Division

Manufacturing	14
Services	11
Transportation & Public Utilities	9
Retail	8
Government	6
Insurance	3
Wholesale	2
Total Self-Insurers as of 6/30/2005	53

(employers who were self-insured for all or part of calendar year 2004). The State of Nebraska is self-insured by statute and is not included in any of the statistics that follow.

### Self-Insurance Status By Calendar Year

Calendar Year	# of Self-Insurers	# of Employees	Gross Payroll
2004	51	124,762	\$4,038,916,419
2003	52	135,670	\$3,932,199,098
2002	58	135,904	\$3,961,076,218
2001	62	139,419	\$3,914,599,183
2000	62	148,113	\$3,785,487,567
1999	64	136,136	\$3,785,362,521
1998	68	130,134	\$3,908,884,324
1997	76	123,282	\$3,095,073,558
1996	89	137,640	\$3,441,007,693
1995	92	130,854	\$3,268,057,718

**Note:** 2005 figures not available at time of publication.

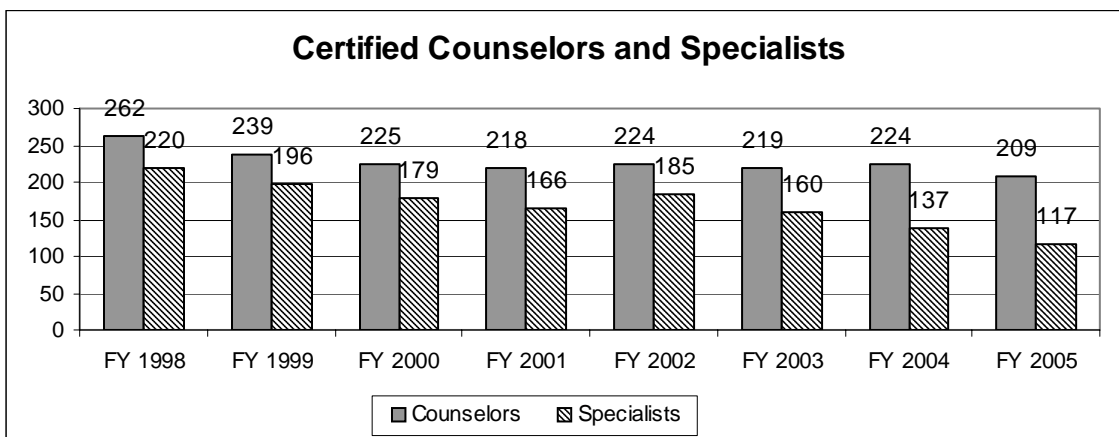
# Vocational Rehabilitation

A manager, three vocational rehabilitation specialists, and two support staff are responsible for duties associated with vocational rehabilitation services to which an employee may be entitled under the Nebraska Workers' Compensation Act. The goal of vocational rehabilitation is to return an injured worker to suitable, gainful employment after an injury covered under the Act. A wide variety of services are available, from coordinating return to the pre-injury job with the employer to a period of formal retraining.

The duties of the section can be divided into three broad categories: certifying vocational rehabilitation counselors and job placement specialists, appointing counselors when parties cannot agree, and reviewing, approving, and monitoring vocational rehabilitation plans.

## Certification of Counselors and Specialists

Vocational rehabilitation services can only be provided to injured workers by individuals who have been certified by the court. Rules 39–41 contain the requirements for certification. On June 30, 2005 there were 209 vocational rehabilitation counselors and 117 job placement specialists certified by the court. It should be noted that all certified counselors are not listed on the directory maintained by the court. By rule, vocational rehabilitation counselors and job placement specialists employed by a state agency and not working as private vocational service providers are considered certified. They are not included on the directory as they may not be selected or appointed to a workers' compensation vocational rehabilitation case. The directory lists 125 private vocational rehabilitation counselors, 54 of whom are located in Nebraska.



## Appointment of Counselors

When an injured worker claims entitlement to vocational rehabilitation services, the employee and the employer (or the employer's insurer) must try to agree on a vocational rehabilitation counselor to evaluate the employee and provide needed services. If they cannot agree, one of them can ask the court to appoint a counselor from the directory. Of the 679 cases opened in FY 2005, the court appointed 190 counselors from its directory and the parties were able to agree upon a counselor in 482 cases. Seven requests for appointment of a counselor were denied or withdrawn.

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When a vocational rehabilitation counselor is agreed upon or appointed, a vocational rehabilitation case is established. On June 30, 2005 there were 801 open cases. A total of 771 cases were closed for a variety of reasons during FY 2005 (training completed, employee returned to work, claim settled, etc.).

## Vocational Rehabilitation Plans

Once it is determined that an employee may be entitled to vocational rehabilitation services in order to return to suitable, gainful employment the employee is evaluated and, if necessary, a vocational rehabilitation plan is developed. The level of services to be provided is based on a hierarchy outlined in Section 48-162.01 of the Nebraska Workers' Compensation Act. These services range from coordinating a return to the pre-injury job with the pre-injury employer to a plan of formal retraining.

A vocational rehabilitation plan of some type is involved in a majority of the cases monitored by the section. The following chart shows the type of plans closed during FY 2005. A total of 379 plans had start dates in FY 2005 and currently there are 214 plans being monitored on open cases.

<b>Type of Vocational Plan</b>	
Job Placement	<b>221</b>
Associate Degree	<b>108</b>
Certificate/Other Training	<b>73</b>
English as Second Language (ESL)	<b>43</b>
General Education Diploma (GED)	<b>26</b>
Seminar/Remedial	<b>14</b>
Bachelor's or Other Advanced Degree	<b>12</b>
On-The-Job Training (OJT)	<b>5</b>
Total Vocational Plans in FY 2005	<b>502</b>

When an employee is in a court-approved vocational rehabilitation plan, the following costs are paid by the Workers' Compensation Trust Fund administered by the court: tuition, books, tools, other appropriate fees and costs, and board, lodging, and/or travel in some circumstances. In addition, salaries, other benefits, and expenses incurred by the court for the purposes of vocational rehabilitation are paid from the fund. Total disbursements from the trust fund for vocational rehabilitation purposes are shown in Section 1, page 12 of this Annual Report.

Vocational rehabilitation counselor fees for the evaluation of the employee, development and implementation of a vocational rehabilitation plan, and preparation of a loss of earning power evaluation are paid by the employer or workers' compensation insurer. This also includes charges by job placement specialists or interpreters, if necessary. The employer or insurer is also responsible for temporary disability benefits while the employee is undergoing vocational rehabilitation.

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# Public Information

The court's Public Information section exists for three purposes:

- to educate the public regarding Nebraska workers' compensation law and procedural rules. Public Information staff respond to inquiries received on the court's toll-free information line and email help desk, and also disseminate information by means of the court's Web site, publications, workshops, and seminars.
- to provide access to public records maintained by the court.
- to process and analyze injury and payment reports filed electronically and on paper by the court's trading partners, including insurers, risk management pools, and self insured employers. Public Information staff also administer access to the court's extranet Claims Search database to assist trading partners in complying with their reporting responsibilities.

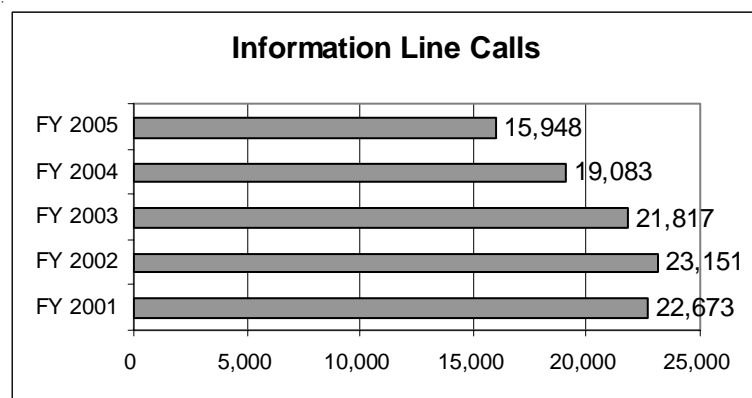
Providing these services requires eight full-time staff members: a manager, two public information specialists, a data quality assurance analyst, two computer operators, a receptionist/secretary, and an office clerk.

## Education

### *Information Line*

The court's toll-free information line enables the court to serve the public more efficiently and saves the cost of long-distance calling. Public information specialists assist callers on the information line from 8:00 a.m. to 5:00 p.m, Monday through Friday. After hours and during weekends and holidays, callers receive instructions to leave a message so that a specialist can return the call on the next working day.

The specialists provide answers to commonly asked questions about workers' compensation in Nebraska or research inquiries for a response, usually within 24 hours. Calls can also be transferred to other court sections for more information. Court staff do not provide opinions, guesses, or legal advice.



The information line received 15,948 calls in FY 2005, an average of 306.7 calls per week or 64.3 calls per day. This is a 16.4 percent decrease from FY 2004. Increased use of the court's Web site and electronic help desk may have contributed to the de-

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crease in calls. Calls on the information line come from employees, attorneys, employers, insurers, medical and vocational rehabilitation providers, and others in Nebraska and throughout the nation.

### **Web Site**

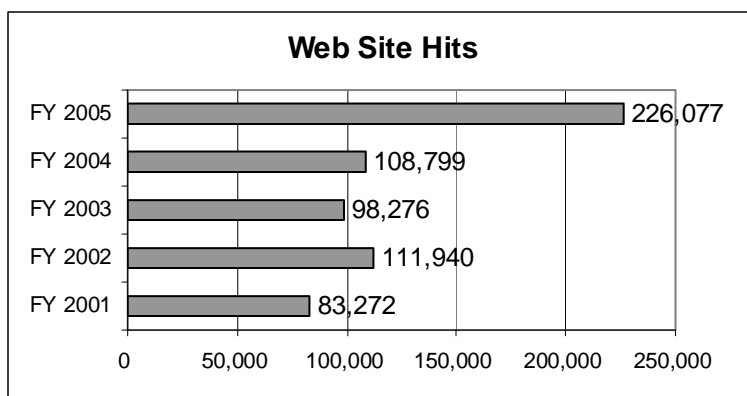
Public Information staff develop and maintain the court's Web site (<http://www.wcc.ne.gov/>). In June 2005, the site was updated to comply with the Branding and Policy Consistency standard of the Nebraska Information Technology Commission. The purpose of this standard is to assure site visitors that they are viewing an official State of Nebraska Web site and to ensure that the public can easily link to the official State of Nebraska homepage and view its privacy and security policies from each Web page of our site. Also during the fiscal year, the court's forms in Portable Document Format (PDF) were enhanced to comply with the Governor's Initiative to electronically automate the thousands of paper forms that are critical to the State's business. The court's PDF forms may now be completed electronically, printed, and then mailed or faxed to the court.

Another addition to the site is a page dedicated to Vocational Rehabilitation issues (<http://www.wcc.ne.gov/vr.htm>). Visitors to this page can view the listing of court-certified private VR counselors, download VR-related publications and forms, review upcoming VR meeting announcements and minutes of past meetings, and look up the court's VR Specialists by city name.

The site's internal coding complies with the World Wide Web Consortium (W3C) standards to maximize overall accessibility and ease of use. Public Information staff use online validators created and maintained by the W3C to test all Web pages for valid coding. The site uses Secure Socket Layer (SSL) technology in its electronic Web forms. SSL technology encrypts information transmitted to the court to protect private information from internet hackers.

Among these secure forms is an electronic version of the court's Record Request form. Web site visitors can request workers' compensation records online by completing the required form fields and clicking the "submit" button. The "Contact Us" form is also secure. Web site visitors use this form to send questions, comments and requests to the court. All information transmitted from our secure Web forms come to the court's electronic help desk in the form of email. Not including requests for records, which are addressed on Page 29, Public Information staff responded to 1,339 such emails in FY 2005.

In FY 2005, the Web site received 226,077 hits, a 107.8 percent increase from FY 2004. During the past five years, traffic on the site has increased 171.5 percent from FY 2001's total of 83,272 hits. The Web site server host, Nebraska.gov, gathers these statistics and it should be noted that these statistics do not include hits to our Web site from State of Nebraska agencies.



Of the Web site activity that was tracked in FY 2005, the files in the “Publications/Forms” page had the most hits with 65,743 (29 percent of all hits in FY 2005). Nearly 20 percent of these were for the Rule Book, with a total of 12,982 hits (5.7 percent of all hits). This was followed by the “Frequently Asked Questions (FAQ)” page with 29,693 hits (13.1 percent of all hits) and the “Electronic Data Interchange (EDI)” page with 21,060 hits (9.3 percent of all hits).

## ***Publications***

The Public Information section designs, writes, edits, and maintains an inventory of the following publications and forms.

- Annual Report
- Statistical Report
- Rules of Procedure
- Bulletin (*newsletter of the court*)
- Rights & Obligations (*also available in Spanish*)
- Choosing a Doctor for a Work-Related Injury (*also available in Spanish*)
- Vocational Rehabilitation Services (*also available in Spanish*)
- Informal Dispute Resolution and Mediation
- Information for Claimants Not Represented by an Attorney
- Record Request Form
- Form 1–First Report of Alleged Occupational Injury or Illness
- Form 4–Subsequent Report
- Form 12–Insurance Coverage
- Form 50–Choice of Doctor (*also available in Spanish*)
- Form 63-1–Request for Independent Medical Examiner
- Form 67-2–Notice of Agreement to use a Named Independent Medical Examiner

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## ***Workshops and Seminars***

Public Information staff also assist with planning, preparing, and conducting informational workshops and seminars presented by the court. During FY 2005, court staff have presented information to approximately 512 people in a total of eight workshops and seminars.

## **Record Searches**

One of the most common requests from the public are for record searches regarding injuries to an individual employee. Public Information staff fulfilled 9,253 requests for such records in FY 2005, a 10 percent increase from FY 2004. Of the record requests fulfilled in FY 2005, 8,271 were fulfilled by means of electronic mail or electronic fax. Five-year searches of first and subsequent reports are fulfilled at no charge if sufficient information is provided to promptly identify the records. Public Information staff fulfill most record requests within four business days.

## **Data Processing and Analysis**

Public Information staff processed 70,206 first reports and 93,749 subsequent reports in FY 2005. At the time of publication, 99.9 percent of all first reports and 87 percent of all subsequent reports are filed electronically using Electronic Data Interchange (EDI). Public Information staff process the electronic reports and also code and manually enter the remaining paper reports. Once processed, the data quality assurance analyst examines and maintains the data for statistical purposes.

The court has implemented a secured Internet application hosted by the state's Information Management Services (IMServices) Agency. Access to the court's Claims Search database is administered by Public Information staff. This application provides the court's trading partners with access to basic claims information that will help them to file accurate subsequent reports with the court. Public information staff assist trading partners with the approval process, maintain the approved user list, and provide basic troubleshooting services when problems arise. At the time of publication, 66 of the court's 152 trading partners are approved for access to this database.

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# Information Technology

The Information Technology section of the Nebraska Workers' Compensation Court is responsible for the administration and maintenance of the court's computer systems and network. This includes the court's databases relating to reports of injury, benefit payments, vocational rehabilitation, and adjudication, which are maintained in Oracle. The court has implemented a system for exchanging information through Electronic Data Interchange (EDI). The section maintains an electronic connection with the database at the National Council on Compensation Insurance (NCCI). The court also takes advantage of Internet access to Secretary of State information related to corporation and business records. Providing these services requires a manager, three full-time staff members, and one development contractor.

## Fiscal Year Activities

Ending June 30, 2005, the court completed its eighth full year of managing data on its client/server system, which utilizes an Oracle database. The database currently contains 10 full years' worth of information, going back to calendar year 1996 for first reports of injury. The court also added to its historical statistical injury-related information, for purposes of performing cross-year analysis. Over the eight-year time frame the section has developed and maintains 377 program units: 299 in Oracle Forms/Reports, 27 in Micro Focus Cobol, and 51 in Borland Delphi. The section also provides support for an Oracle adhoc reporting tool used by 22 court staff members for producing reports and data extracts from the database.

A new IME subsystem was developed and implemented during the fiscal year that tightly integrates case management information with electronic documents and introduced a first-phase work queue system.

The court's presiding judge has set a goal of being a "paperless" court by the year 2011. The court Information Technology plan and court Strategic plan is structured to achieve that goal.

## Electronic Data Interchange

The court's Electronic Data Interchange (EDI) reporting initiative allows employers, insurers, and others to file certain reports with the court in an electronic format as opposed to sending forms through the mail. At the time of publication, 99.9 percent of all first reports and 87 percent of all subsequent reports are filed electronically using EDI. The court, using the development and hosting services of IMServices, maintains a secured Internet application which allows claims administrators access to injury report information. This assists the insurance companies and third party administrators with properly filing injury and payment information.

## Proof of Coverage

The court continued work during the fiscal year in preparation for receiving electronic transmissions of Proof of Coverage data from external data sources. This involved developing initial load programs, daily transaction processing programs, and internal query

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screens to be used by court staff to look up coverage. The goals of the project are to maintain a local repository of policy information for records management purposes and to be able to compare this information against employer information as provided to the court by other agencies.

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# Nebraska Occupational Injury and Illness Survey — 2003

## Occupational Safety and Health Act

The Occupational Safety and Health Act of 1970 (OSHA) became an official part of the nation's labor laws in 1971. With its passage, Congress declared its intent “. . . to assure as far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources.”

Under this Act, employers are required to keep records of all work-related deaths, any diagnosed occupational illnesses and any occupational injuries which involve loss of consciousness, restriction of work or motion, transfer to another job, or requires medical treatment beyond first aid. Employers with more than ten (10) workers are required to maintain a log and summary of occupational injuries and illnesses (OSHA No. 300) and a supplementary record (OSHA No. 301)<sup>1</sup> of each occurrence within the calendar year. These records are retained at the work site for five (5) years and must be available for inspection by representatives of the U.S. Department of Labor and the U.S. Department of Health and Human Services. Employers with less than eleven (11) employees and those employers who conduct business in one of the low hazard industries specified by OSHA are generally exempt from these recordkeeping requirements unless they are notified of the necessity to maintain these records for a given year for statistical purposes.

## Occupational Injury and Illness Survey

In order to measure and evaluate the efforts in reducing work-related injuries and illnesses, a standardized system to collect, compile and analyze the health and safety statistics was established and implemented. This standardized system enables data users to identify those industries that need improvement, furthers monitoring and education programs, and allows employers to compare their incidence rates with other employers in the same industry.

The Nebraska Workers' Compensation Court has cooperated with the U.S. Department of Labor and the Bureau of Labor Statistics since 1971 in conducting an annual survey of Nebraska Employers which has provided these essential work injury and illness statistics. The 2003 sample surveyed 3,650 employing units in the state.

**Note on industry and occupation classifications:** Beginning with the 2003 reference year, the Occupational Injury and Illness Survey began using the 2002 North American Industry Classification System (NAICS) for industries and the Standard Occupational Classification (SOC) system for occupations. Prior to 2003, the program used the Standard Industrial Classification (SIC) system and the Bureau of the Census occupational classification system. Because of the substantial differences between the current and previous systems, the results by industry and occupation in 2003 constitute a break in series, and users are advised against making comparisons between the 2003 industry and occupation categories and the results for previous years.

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Information regarding the survey and the results of the Occupational Injury and Illness Survey 2003 is available on the court's Web site ([http://www.wcc.ne.gov/about/noii\\_2003.pdf](http://www.wcc.ne.gov/about/noii_2003.pdf)).

<sup>1</sup>In the State of Nebraska the Workers' Compensation Form 1 — First Report of Alleged Occupational Injury or Illness, may be used in place of the OSHA No. 301 form.

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# Census of Fatal Occupational Injuries (CFOI) — 2004

The Census of Fatal Occupational Injuries (CFOI) Program was developed by the U.S. Department of Labor, Bureau of Labor Statistics (BLS) to provide a timely and accessible census of work-related fatalities. The CFOI program is a federal/state cooperative program. In Nebraska, CFOI is conducted by the Nebraska Workers' Compensation Court. This is the 13th year that CFOI has been conducted in all 50 states and the District of Columbia.

## 2004 Census of Fatal Occupational Injuries

CFOI 2004 used multiple data sources including death certificates, workers' compensation reports, medical examiner reports, and other available federal and state administrative records, to compile a complete, verifiable count of Nebraska fatal workplace injuries. The census covers all traumatic occupational fatalities, including those resulting from injuries to the self-employed, laborers on small farms, government workers, and others too difficult to identify from a single data source.

Besides comprehensive counts of fatal work injuries, the 2004 census provides information on the demographic characteristics of the deceased workers (including age, gender, and race), the occupations and industries the decedents worked in and the circumstances of their tragedies. This wealth of information on hazards in Nebraska workplaces yields vital insights to aid in preventing future workplace fatalities. Safety and health researchers are able to study patterns of fatal work injuries, identify hazardous activities and equipment, and alert workers to these dangers.

## 2004 Census Results

The Nebraska Census of Fatal Occupational Injuries recorded 46 fatal workplace injuries during 2004, down from 51 the previous year. Other findings of the census include:

- Transportation accidents were the leading fatal event, accounting for 21 (46 percent) of fatal occupational injuries in 2004. Falls followed with nine (20 percent) and exposure to harmful substances or environment contributed seven (15 percent).
- Among industry groups, the largest number of fatal work injuries was in agriculture, forestry, fishing and hunting with 14 deaths (30 percent). Trade, transportation, and utilities followed with eight deaths (17 percent) along with the construction industry, which also had eight deaths (17 percent).
- Fourteen (30 percent) of those fatally injured were 35 – 44 years of age, another 14 (30 percent) were 45 – 54 years of age, and eight (17 percent) were 65 years and over.
- Forty (87 percent) of those fatally injured were white, non-hispanic.

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- Forty-five (98 percent) of those fatally injured were men.
  - Twenty-nine (63 percent) of those fatally injured were wage and salary workers. The remainder were self-employed.

Information regarding the census and the results of the Census of Fatal Occupational Injuries 2004 is available on the court's Web site ([http://www.wcc.ne.gov/about/cfoi\\_2004.pdf](http://www.wcc.ne.gov/about/cfoi_2004.pdf)).